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Stephan J. Jourdan

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EXAMINER

LI, AIMEE J

ART UNIT

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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*Ex parte* STEPHAN J. JOURDAN, ADI YOAZ, MATTAN EREZ, and  
RONNY RONEN

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Appeal 2008-2383  
Application 09/749,405  
Technology Center 2100

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Mailed: May 11, 2009

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Before DALE M. SHAW, *Chief Appeals Administrator*  
SHAW, *Chief Appeals Administrator*.

ORDER REMANDING APPEAL TO EXAMINER

This application was electronically received at the Board of Patent Appeals and Interferences on March 19, 2008. A Docketing Notice was mailed and Appeal No 2008-2383 was assigned on March 28, 2008. A review of the application has revealed that the application was not ready for

an appeal. Accordingly, the application is herewith being remanded to the Examiner. The matter requiring attention is identified below.

Claims 10-16 and 24-27 of the instant application are set forth as method claims that may not fall within one of the four statutory categories of invention recited in 35 U.S.C. § 101. On May 15, 2008, the Deputy Commissioner for Patent Examining Policy, John J. Love, issued a memorandum entitled “Clarification of “Processes” under 35 U.S.C. § 101.” This memorandum is further used in conjunction with the Interim Guidelines and the Manual of Patent Examining Procedure § 2106.IV.B, when determining whether a claimed invention falls within a statutory category of invention. *See In re Bilski*, No. 2007-1130, \_\_\_ F.3d \_\_\_, 2008 WL 4757110 (Fed. Cir. Oct. 30, 2008) (en banc). Thus, there is a question as to whether claims 10-16 and 24-27 meet the requirements of being a patent eligible process under 35 U.S.C. § 101.

Accordingly, it is

ORDERED that the application is remanded to the Examiner to determine if claims 10-16 and 24-27 meet the requirements of being a patent eligible process under 35 U.S.C. § 101.

If there are any questions pertaining to this order, please contact the Board of Patent Appeals and Interferences at 571-272-9797.

mls

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